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E-filing

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MAR 15 2013
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

BLANCA CASTILLO,

Plaintiff,

vs.

GC SERVICES, LP; and DOES 1 to
10, inclusive,

Defendants.

Case No. **C13-1187**

LB

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

ADR

COMPLAINT

INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff, Blanca Castillo, an individual consumer, against Defendant, GC Services, LP, for violations of the law, including, but not limited to, violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter

1 “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive,
2 and unfair practices.

3 **VENUE AND JURISDICTION**

4 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28
5 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and
6 2202. Venue in this District is proper in that the Defendant transacts business here.
7

8 **PARTIES**

9 3. Plaintiff, Blanca Castillo, is a natural person with a permanent
10 residence in Oakland, Alameda County, California 94607.
11

12 4. Upon information and belief, the Defendant, GC Services, LP, is a
13 corporation engaged in the business of collecting debt in this state and in several
14 other states, with its principal place of business located at 6330 Gulfton Street,
15 Suite 300, Houston, Harris County, Texas 77081. The principal purpose of
16 Defendant is the collection of debts in this state and several other states, and
17 Defendant regularly attempts to collect debts alleged to be due another.
18

19 5. Defendant is engaged in the collection of debts from consumers using
20 the mail and telephone. Defendant regularly attempts to collect consumer debts
21 alleged to be due to another. Defendant is a “debt collector” as defined by the
22 FDCPA, 15 U.S.C. § 1692a(6).
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FACTS

1
2 6. The debt that Defendant is attempting to collect on is an alleged
3 obligation of a consumer to pay money arising out of a transaction in which the
4 money, property, insurance or services which are the subject of the transaction are
5 primarily for personal, family, or household purposes, whether or not such
6 obligation has been reduced to judgment.
7

8 7. Within one (1) year preceding the date of this Complaint, Defendant,
9 in connection with the collection of the alleged debt, stated to Plaintiff that
10 Defendant was putting down Plaintiff as refusal to pay.
11

12 8. Within one (1) year preceding the date of this Complaint, Defendant,
13 in connection with the collection of the alleged debt, repeatedly communicated
14 with Plaintiff's former co-workers, who is not a co-signer on the alleged debt, and
15 the communication was not in a manner covered by §1692b of the FDCPA.
16

17 9. Within one (1) year preceding the date of this Complaint, Defendant,
18 in connection with the collection of the alleged debt, contacted Plaintiff and
19 threatened to garnish Plaintiff's wages.
20

21 10. Defendant has no standing to commence garnishment proceedings on
22 behalf of the creditor.

23 11. Defendant is a debt collection company and as a debt collection
24 company attempting to collection an alleged debt, Defendant can only refer the
25

1 matter back to the creditor with a recommendation that the original creditor
2 attempt legal proceedings which could result in garnishment.

3 12. The representations made to Plaintiff by Defendant regarding
4 garnishment were false

5 13. The natural consequences of Defendant's statements and actions were
6 to unjustly condemn and vilify Plaintiff for her non-payment of the debt she
7 allegedly owed.

8 14. The natural consequences of Defendant's statements and actions were
9 to produce an unpleasant and/or hostile situation between Defendant and Plaintiff.
10

11 15. The natural consequences of Defendant's statements and actions were
12 to cause Plaintiff mental distress.
13

14 16. Defendant utilized unfair and unconscionable means to collect on
15 Plaintiff's alleged debt, by lying to and misleading Plaintiff.
16

17 **COUNT I – FDCPA**

18 17. Plaintiff repeats and realleges and incorporates by reference to the
19 foregoing paragraphs.
20

21 18. Defendants violated the FDCPA. Defendants' violations include, but
22 are not limited to, the following:

23 (a) Defendant violated §1692b(2) of the FDCPA by telling a third
24 party that the Plaintiff owes an alleged debt; and
25

1
2 (b) Defendant violated §1692b(3) of the FDCPA by calling a third
3 party more than once without being requested to do so by the third
4 party and without the reasonable belief that an earlier response
5 from the third party was erroneous or incomplete and that now the
6 third party has correct or complete location information; and
7

8 (c) Defendant violated §1692c(b) of the FDCPA by contacting a third
9 party in connection with the collection of the alleged debt without
10 the consent of the Plaintiff and the contact was not in a manner
11 covered by §1692b of the FDCPA; and
12

13 (d) Defendant violated §1692d of the FDCPA by engaging in conduct
14 the natural consequences of which is to harass, oppress, or abuse
15 any person in connection with the collection of an alleged debt;
16 and
17

18 (e) Defendant violated §1692d(2) of the FDCPA by using obscene or
19 profane language or language the natural consequences of which is
20 to abuse the hear or reader in connection with the collection of an
21 alleged debt; and
22
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1 (f) Defendant violated §1692e of the FDCPA by using a false
2 deceptive, or misleading representation or means in connection
3 with the collection of the alleged debt; and

4 (g) Defendant violated §1692e(4) of the FDCPA by giving the false
5 representation or implication that nonpayment of the alleged debt
6 will result in the garnishment of wages of any person when such
7 action is unlawful and the Defendant does not intend to take such
8 action; and
9

10 (h) Defendant violated §1692e(5) of the FDCPA by threatening to take
11 action that the Defendant does not intend to take and/or the
12 Defendant cannot legally take; and
13

14 (i) Defendant violated §1692e(10) of the FDCPA by using false
15 representation or deceptive means in connection with the collection
16 the alleged debt; and
17

18 (j) Defendant violated §1692f of the FDCPA by using unfair or
19 unconscionable means in connection with the collection of an
20 alleged debt.
21

22 19. Defendant's acts as described above were done intentionally with the
23 purpose of coercing Plaintiff to pay the alleged debt.
24
25

1 20. As a result of the foregoing violations of the FDCPA, Defendant is
2 liable to the Plaintiff, Blanca Castillo, for declaratory judgment that
3 Defendant's conduct violated the FDCPA, actual damages, statutory
4 damages, and costs and attorney fees.
5

6 **COUNT II – RFDCPA**

7 21. Plaintiff repeats and realleges and incorporates by reference to the
8 foregoing paragraphs.
9

10 22. Defendant violated the RFDCPA. Defendant's violations include, but
11 are not limited to the following:

12 (a) Defendant violated §1788.17 of the RFDCPA by being a debt
13 collector collecting or attempting to collect a consumer debt that is not
14 compliant with the provisions of Sections 1692b to 1692j of the
15 FDCPA, the references to federal codes in this section referring to
16 those codes as they read as of January 1, 2001.
17

18 23. Defendant's acts as described above were done intentionally with the
19 purpose of coercing Plaintiff to pay the alleged debt.
20

21 24. As a result of the foregoing violations of the RFDCPA, Defendant is
22 liable to the Plaintiff for actual damages, statutory damages, and costs and attorney
23 fees.
24
25

PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully requests that judgment be entered against Defendant, GC Services, LP, for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA and RFDCPA.
- B. Actual damages.
- C. Statutory damages.
- D. Costs and reasonable attorney fees.
- E. Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law.
- F. For such other and further relief as the Court may deem just and proper

DATED: March 13, 2013

RESPECTFULLY SUBMITTED,

PRICE LAW GROUP APC

By: 

G. Thomas Martin, III
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, Blanca Castillo, demands trial by jury in this action.